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EXAMINER

AUGUSTINE, NICHOLAS

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2179

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10/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/606,037	Applicant(s) ELLIOTT ET AL.	
	Examiner NICHOLAS AUGUSTINE	Art Unit 2179	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29,31-41,45-51,55 and 56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29,31-41,45-51,55 and 56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/28/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

- A. This action is in response to the following communications: Amendment filed: 07/28/2008. This action is made **Final**.
- B. Claims 1-29, 31-41, 45-51 and 55-56 remain pending.
- C. 35 USC 103 rejections under Mann reference have been withdrawn.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-9,12-18,20,21,23-24,36-37,41-46 and 50-56 are rejected under 35**

U.S.C. 103(a) as being anticipated by Blaze Software (Blaze Tray Audio)

<http://web.archive.org/web/20020202140332/www.trayaudio.com/index.html>, in view of Srinivasan et al (US 6,357,042), herein referred to as "Srinivasan".

- *The Examiner encourages the applicant to run the program of Blaze Tray Audio for purposes of better understanding the software. Free trial software can be found at*

<http://web.archive.org/web/20010813165611/www.trayaudio.com/trayaudio>

As for independent claim 1, Blaze teaches a user interface comprising: a graphical interface that enables a user to select media-playing services (pg.2 par.2), wherein the graphical interface is integrated into an operating system shell's user interface and includes multiple controls for selection of the media-playing services (pg.2 par.4 and pg.3; wherein when the user selects the graphical portion of Blaze audio playing interface multiple controls are rendered to the display). Blaze does not specifically teach that multiple controls are displayed at once on the taskbar, however in the same field of endeavor Srinivasan does teach media controls, more than one, being displayed on the taskbar (col.24, lines 15-22). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Srinivasan into Blaze, this is true because displaying more than one control at a time yields the predictable result with in reason by someone of ordinary skill in the art would expect to see more than one control displayed at one time on a taskbar, also Srinivasan and Blaze both teach displaying a media control in a taskbar, adding more than one control is an obvious variant. Note that on figure 14 of Srinivasan, the Windows Explorer shell is depicted (http://en.wikipedia.org/wiki/Windows_Explorer).

As for dependent claim 2, Blaze teaches the user interface of claim 1, wherein the graphical interface further enables the user to select media-playing services with a single click of a mouse (pg.2).

As for dependent claim 3, Blaze teaches the user interface of claim 1, wherein the graphical interface further enables the user to select media-playing services with a single click of a mouse when another application running in another process is in perspective (pg.2 as illustrated in the flash presentation on the site one user click to activate a playing function is shown).

As for dependent claim 4, Blaze teaches the user interface of claim 3, wherein the perspective includes the other application being in focus (pg.3; wherein the player is in the system tray out of perspective).

As for dependent claim 5, Blaze teaches the user interface of claim 1, wherein the graphical interface further enables the user to select media-playing services without altering a perspective of another application running in another process (note claim 4)

As for dependent claim 6, Blaze teaches the user interface of claim 1, wherein the controls include buttons for selection of the media-playing services (pg. 2, par.4; figures on page 2).

As for dependent claim 7, Blaze teaches the user interface of claim 1, wherein the controls enable selection of the media-playing services including services that stop and pause a first media file being played and start a second media file (note claim 6).

As for dependent claim 8, Blaze teaches the user interface of claim 1, wherein the controls include button for selection of the media-playing services including a service that alters a size for a presenting of a visual aspect of a media file (pg.2; “progress”).

As for dependent claim 9, Blaze teaches the user interface of claim 1, wherein the controls include a control button for selection of the media-playing services including a service that alters a volume for a playback of an audio aspect of a media file (pg.2).

As for dependent claim 12, Blaze teaches the user interface of claim 1, further comprising: a visual space for presenting metadata associated with a media file (pg.2 “02:30”).

As for dependent claim 13, Blaze teaches the user interface of claim 1, further comprising: a visual space for presenting metadata associated with a media file, wherein the graphical interface enables the user to select media-playing services to present metadata associated with the media file (pg.2 & 8, showing a display of metadata with associated media files).

As for independent claim 14, Blaze teaches a system comprising: a media-playing application in computer memory executing in a shell process of an operating system (pg.2), wherein the media-playing application is capable of enabling a user to control

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media through a user interface having multiple controls and integrated into a taskbar associated with the shell process the controls comprising at least one of a play control, a pause control, a stop control, a previous control, a next track control, a volume control, a mute control, a metadata control, a visual space control, a switch control, and a library control (pg.2-3; wherein one and more controls are rendered to the display under the operating system shell (to confirm to a standard window rendering) of controls for Blaze). Blaze does not specifically teach that multiple controls are displayed at once on the taskbar, however in the same field of endeavor Srinivasan does teach media controls, more than one, being displayed on the taskbar (col.24, lines 15-22). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Srinivasan into Blaze, this is true because displaying more than one control at a time yields the predictable result with in reason by someone of ordinary skill in the art would expect to see more than one control displayed at one time on a taskbar, also Srinivasan and Blaze both teach displaying a media control in a taskbar, adding more than one control is an obvious variant. Note that on figure 14 of Srinivasan, the Windows Explorer shell is depicted (http://en.wikipedia.org/wiki/Windows_Explorer).

As for dependent claim 15, Blaze teaches the system of claim 14, wherein preferences for displaying the user interface in the taskbar are retained by the media-playing application for future use (of course those skilled in the art would appreciate that when the application closes and reopens its last status of position and preferences will be retained such much of the startup of the program in (pg.2; figure) wherein the user is

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presented with the application as they closed it).

As for dependent claim 16, Blaze teaches the system of claim 14, wherein the media-playing application is capable of receiving preferences for how the user interface is displayed and used that are received from the user through another application executing in the shell process (pg.5).

As for dependent claim 17, Blaze teaches the system of claim 14, further comprising a player deskband, wherein the player deskband is capable of receiving preferences relating to the user interface and sending the preferences to the media-playing application (of course those skilled in the art will appreciate that the above mentioned program from Blaze uses a program module to communicate to the operating system in order to display itself within the operating shell (pg.2, 7-9) depicts the program running on a computer system , wherein the program is communicating with the operating system).

As for dependent claim 18, Blaze teaches the system of claim 14, wherein the media-playing application comprises a deskband and a controller, the deskband configured to communicate with the shell process and the operating system, the controller configured to enable the user to control media through the user interface (of course those skilled in the art will appreciated that Blaze uses a module to communicate to the operating system and the operating shell process, as noted before, the display of pg.2,7,9 provide

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evidence of such an action, also wherein the operating system handler/ listener is providing a means of a controller to listen for user interaction with the program to provide user control of media files as is what's imposed on the program (i.e. controller).

As for dependent claim 20, Blaze teaches the system of claim 14, wherein the media-playing application is capable of creating the user interface to have a minimum visual size on the taskbar (pg.2-3).

As for dependent claim 21, Blaze teaches the system of claim 14, wherein the media-playing application is capable of creating the user interface following a skin file containing text, art, and script parameters (pg.5)

As for dependent claim 23, Blaze teaches the system of claim 14, wherein the media-playing application is capable of presenting audio media (pg.7).

As for dependent claim 24, Blaze teaches the system of claim 14, wherein the media-playing application is capable of presenting metadata associated with a media file being presented by the media-playing application (note the analysis of claim 23).

As for independent claim 35, Blaze teaches a method comprising: presenting a graphical user interface having multiple controls and integrated into a taskbar user

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interface (pg.2-3); and enabling, without the graphical user interface being in perspective (pg.2), a user to select media-playing services through the multiple controls of the graphical user interface (pg.7-8; wherein the user may select one of the *controls* displayed). Blaze does not specifically teach that multiple controls are displayed at once on the taskbar, however in the same field of endeavor Srinivasan does teach media controls, more than one, being displayed on the taskbar (col.24, lines 15-22). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Srinivasan into Blaze, this is true because displaying more than one control at a time yields the predictable result with in reason by someone of ordinary skill in the art would expect to see more than one control displayed at one time on a taskbar, also Srinivasan and Blaze both teach displaying a media control in a taskbar, adding more than one control is an obvious variant. Note that on figure 14 of Srinivasan, the Windows Explorer shell is depicted (http://en.wikipedia.org/wiki/Windows_Explorer).

As for dependent claim 36, Blaze the method of claim 35, wherein the enabling is performed also without the graphical user interface being in focus (pg.2-3).

As for dependent claim 37, Blaze the method of claim 35, further comprising: presenting a media file in accord with the selected media-playing services (pg.7-8).

As for independent claim 41, Blaze teaches a computer-readable medium (pg.1; of course those skilled in the art will appreciate that the download link from the

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corresponding page indicates that the program is to downloaded and comes in the form that of an installation.exe format wherein is stored on hard disk and can be stored on other suggested mediums as disclosed) comprising computer-executable instructions that perform the following when executed by a computer: present a media-control user interface having multiple controls in a first process for controlling services associated with playing media; and enable a user that is actively engaged with a non-media-control user interface in a second process to interact with the media-control user interface through selection of one or more of the multiple controls without disengaging from the non-media-control user interface (pg.2-3,7-9). Blaze does not specifically teach that multiple controls are displayed at once on the taskbar, however in the same field of endeavor Srinivasan does teach media controls, more than one, being displayed on the taskbar (col.24, lines 15-22). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Srinivasan into Blaze, this is true because displaying more than one control at a time yields the predictable result with in reason by someone of ordinary skill in the art would expect to see more than one control displayed at one time on a taskbar, also Srinivasan and Blaze both teach displaying a media control in a taskbar, adding more than one control is an obvious variant. Note that on figure 14 of Srinivasan, the Windows Explorer shell is depicted (http://en.wikipedia.org/wiki/Windows_Explorer).

As for dependent claim 45, Blaze the computer-readable medium of claim 41, wherein the interaction with the media-control user interface includes a single keystroke (pg.2:

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as demonstrated in the flash presentation and pg.10).

As for dependent claim 46, Blaze the computer-readable medium of claim 41, further comprising: provide media-playing services based on the interaction (pg.9-10).

As for independent claim 50, Blaze teaches a computer-readable medium comprising computer-executable instructions (note claim 41) that perform the following when executed by a computer: create a first user interface with graphically selectable media-control services and running in a first process; and enable selection of the media-control services while a second user interface running in a second process remains in perspective (pg.1-2; wherein the operating system renders the player to the screen and the system listens for input from the user to interact with the player). Blaze does not specifically teach that multiple controls are displayed at once on the taskbar, however in the same field of endeavor Srinivasan does teach media controls, more than one, being displayed on the taskbar (col.24, lines 15-22). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Srinivasan into Blaze, this is true because displaying more than one control at a time yields the predictable result with in reason by someone of ordinary skill in the art would expect to see more than one control displayed at one time on a taskbar, also Srinivasan and Blaze both teach displaying a media control in a taskbar, adding more than one control is an obvious variant. Note that on figure 14 of Srinivasan, the Windows Explorer shell is depicted (http://en.wikipedia.org/wiki/Windows_Explorer).

As for dependent claim 51, Blaze the computer-readable medium of claim 50, wherein the media-control services include initiating and ceasing play of a media file (pg.7-8).

As for independent claim 55, Blaze teaches an apparatus comprising: means for presenting a user interface having multiple controls in a first process for controlling services associated with playing media; and means for enabling a user interacting with a second process to interact with the user interface through the multiple controls and without ceasing to interact with the second process (wherein the operating system renders the player to the screen and the system listens for input from the user to interact with the player; note the analysis of claims 50,41,35,25,14 and 1). Blaze does not specifically teach that multiple controls are displayed at once on the taskbar, however in the same field of endeavor Srinivasan does teach media controls, more than one, being displayed on the taskbar (col.24, lines 15-22). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Srinivasan into Blaze, this is true because displaying more than one control at a time yields the predictable result with in reason by someone of ordinary skill in the art would expect to see more than one control displayed at one time on a taskbar, also Srinivasan and Blaze both teach displaying a media control in a taskbar, adding more than one control is an obvious variant. Note that on figure 14 of Srinivasan, the Windows Explorer shell is depicted (http://en.wikipedia.org/wiki/Windows_Explorer).

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As for dependent claim 56, Blaze the apparatus of claim 55, further comprising: means for playing a media file based on preferences received from the user during the interaction with the user interface, the interaction including selection of two or more of the multiple controls (pg.2-3 and 8).

4. Claims 10,11,19,22,25-35,38-40,47-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blaze in view of in view of Srinivasan et al (US 6,357,042), herein referred to as "Srinivasan" in further view of GustoSoft (<http://web.archive.org/web/20021130001235/http://gustosoft.com/>).

As for claims 10, 11, 19, 22, 28, 38-40, 47-49, Blaze in view of Srinivasan teaches a media player for playing music wherein the media player is inside of the system shell (note the above analysis). Blaze does not expressly mention the use of the media player playing visual media however in the same field of endeavor GustoSoft teaches a multimedia player which is embedded in the system tray that plays music and videos (visual media) (pg.1-4). It would be obvious to one of ordinary skill in the art to combine GustoSoft into Blaze, this is true because GustoSoft presents a media player embedded into the system shell exactly like Blaze but only differing by adding visual media onto of the audio media presented by Blaze (page 1 of GustoSoft) those skilled in the art would see the extract function as an obvious variant for the desktop home entertainment genre in technology.

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As for independent claim 25, Blaze in view of Srinivasan teaches a system comprising: a controller; a playback module; a visual space; and a user interface, wherein: the controller is capable of creating the user interface; the user interface is integrated within an operating-system shell's user interface and is capable of enabling a user to input preferences for play of a media file; and the playback module is capable of rendering the media file to enable the controller to present the media file in the visual space and with the visual space remaining visible over all other windows on a screen in which the user interface and operating-system shell's user interface is presented (pg 8) (Note the analysis of claims 8,11, 16,18 and 19; wherein it is appreciated that the above already analyzed claims are within the exact same similarity and it is well appreciated that the teachings of Blaze correspond to a program which in turn is related to a system, wherein this system performs the above mentioned subject matter as noted from the above analysis already). Blaze does not expressly mention the use of the media player playing visual media and displaying player always on top of all other windows however in the same field of endeavor GustoSoft teaches a multimedia player which is embedded in the system tray that plays music and videos and displaying the player on top always (visual media) (pg.1-4). It would be obvious to one of ordinary skill in the art to combine GustoSoft into Blaze, this is true because GustoSoft presents a media player embedded into the system shell exactly like Blaze but only differing by adding visual media onto of the audio media presented by Blaze (page 1 of GustoSoft) those skilled in the art would see the extract function as an obvious variant for the desktop home entertainment genre in technology.

As for dependent claim 26, Blaze in view of Srinivasan teaches the system of claim 25, further comprising a deskband, wherein the deskband is capable of aiding the controller in determining parameters for the user interface to conform by communicating with an operating system that governs the operating-system shell's user interface (note the analysis of claims 17-18).

As for dependent claim 27, Blaze in view of Srinivasan teaches the system of claim 25, further comprising a deskband, wherein the deskband is capable of building a file containing parameters for the user interface to conform to an operating-system shell governing the operating-system shell's user interface (note the analysis of claims 17-18).

As for dependent claim 29, Blaze in view of Srinivasan teaches the system of claim 25, wherein the user interface includes media-playing services that stop, play, pause, skip forward or backward through, and change to a next or previous track of the media file (pg.8).

As for dependent claim 30, Blaze teaches in view of Srinivasan the system of claim 25, wherein the user interface includes media-playing services that stop, play, and pause the media file (pg.7-8)

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As for dependent claim 31, Blaze in view of Srinivasan teaches the system of claim 25, wherein the user interface is capable of enabling the user to input preferences through dragging and dropping an icon representing a media file onto the visual space or the user interface (pg.7).

As for dependent claim 32, Blaze in view of Srinivasan teaches the system of claim 25, wherein the user interface and the playback module execute in different processes (pg.7; of course, those skilled in the art will appreciate that explorer.exe or the like runs the operating system graphical user interface while the trayplayer.exe handles the media player program at hand).

As for dependent claim 33, Blaze teaches in view of Srinivasan the system of claim 25, wherein the user interface and the playback module execute in one process (note claim 32 analysis; wherein of course, those skilled in the art will appreciate that one process can render the interface as well as listen for incoming request from the user).

As for dependent claim 34, Blaze in view of Srinivasan teaches the system of claim 25, wherein the user interface executes in a first process governing the operating system shell's user interface, the playback module executes in a second process, and the user interface includes a button to select a service that switches presentation of media from the visual space to a second visual space created by an application running in the

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second process (note the analysis of claims 33, 32 and 25 above).

(Note:) It is noted that any citation to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In re Heck, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)).

Response to Arguments

Applicant's arguments filed 07/28/2008 have been fully considered but they are not persuasive.

After careful review of the amended claims (given the broadest interpretation) and the remarks provided by the Applicant along with the cited reference(s) the Examiner does not agree with the Applicant for at least the reasons provided below:

A1. Applicant states that the Blaze reference minimizes the media player in the taskbar as a small icon. A user can subsequently click on the icon, but no controls whatsoever are displayed in the taskbar. Furthermore, the Srinivasan reference does not teach that controls are displayed in an operating system's taskbar.

R1. Examiner does not agree with Applicant's reasoning. Blaze shows a media application running from the operating systems shell's taskbar for purposes of playing/managing music (media); Blaze specifically states that the application is in the taskbar and the application is associated with plurality of controls for interfacing with playback of media. Srinivasan is introduced to cure the deficiencies of Blaze in such that Srinivasan explains that multiple controls corresponding to playback functionality can be placed within a "taskbar". One of ordinary skill in the art at the time of the

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invention would not have been hard pressed to see that the multiple playback controls can be displayed instead of just one control as suggested by Blaze as modified by Srinivasan.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Inquires

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Augustine whose telephone number is 571-270-1056. The examiner can normally be reached on Monday - Friday: 7:30- 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 571-272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nicholas Augustine/
Examiner
Art Unit 2179
October 23, 2008

/Ba Huynh/
Primary Examiner, Art Unit 2179